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60668	7590	11/12/2010	EXAMINER	
SAP / FINNEGAN, HENDERSON LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			JEANTY, ROMAIN	
ART UNIT	PAPER NUMBER			
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/582,331	<b>Applicant(s)</b> WOEHLER, CHRISTIAN
	<b>Examiner</b> Romain Jeanty	<b>Art Unit</b> 3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

- 1) Responsive to communication(s) filed on 09 June 2006.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 and 15 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-12 and 15 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. The following is a Non-Final Office Action in response to the communication received on June 9, 2006. Claims 1-12 and 15 are now pending in this application.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 10, claim 10 recites "wherein the calculation and recalculation steps calculate the incidence..." However, it is unclear as to what recalculation step applicant is referring to. It is also unclear as to what incidence applicant is referring.

#### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
5. Claims 1-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

6. Claims 1-10 are rejected under 35 U.S.C. 101 based on recent Supreme Court precedent and Federal Circuit decisions. The Office's guidance to examiners is that a § 101 process must (1) be tied to a particular machine or apparatus, or (2) particularly transform a particular article to a different state or thing (also referred to as the "machine-or-transformation test"). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876); *In re Bilski*, 88 USPQ2d 1385 (Fed Cir. 2008). Also see USPTO Memoranda, "Guidance for Examining Process Claims in view of *In re Bilski*," January 7, 2009 and "New Interim Patent Subject Matter Eligibility Examination Instructions," August 24, 2009. Both memoranda may be located on the USPTO website at: <http://www.uspto.gov/web/patents/memoranda.htm>.

Additionally, there are two corollaries to the machine-or-transformation test. First, a mere field-of-use limitation is generally insufficient to render an otherwise ineligible method claim patentable. This means the machine or transformation must impose meaningful limits on the method claim's scope to pass the test. Second, insignificant extra-solution activity will not transform an unpatentable principle into a patentable process. This means reciting a specific machine or particular transformation of a specific article in an insignificant step, such as data gathering or outputting, is not sufficient to pass the test.

If neither prong of the machine-or-transformation test is met by the claim, the method is not a patent eligible process under 35 U.S.C. 101 and is non-statutory subject matter.

It is further noted that mere recitation of a machine in the preamble in a manner such that the machine fails to patentably limit the scope of the claim does not make the claim statutory under 35 USC 101, as seen in the Board of Patent Appeals Informative Opinion *Ex Parte Langemyr et al. (Appeal 2008-1495)*.

In the instant case, Applicant's method steps fail the first prong since they are not tied to a particular machine and can be performed without the use of a particular machine or apparatus. For example, the broadest reasonable interpretation of claims 1-10 would be a method that could be performed by hand. Similarly, Applicant's method steps fail the second prong because they do not result in a transformation of a particular article to a different state or thing. Thus, claims 1-10 are non-statutory.

#### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1-4, 7-12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stowell et al (US 20020099579) in view of Gill (US Patent No. 6,947,951).

Regarding claims 1, and 7-9, Stowell et al discloses providing a data storage system to store data with respect to a plurality of product independent characteristics and product dependent characteristics (Paragraph 0065); receiving a selection of at least one product to be represented (Paragraph 0151), receiving a selection of a particular characteristic to be represented (Paragraph 0151), receiving a planning parameter with respect to the selection of a particular characteristic or product (Paragraph 0080), loading data from the data storage system into a buffer 0104); performing a calculation on the data with respect to the product dependent characteristics and the product independent characteristics (Paragraphs 0137 and 0138). Stowell et al discloses all of the limitations above but fails to explicitly disclose the step of modeling a hierarchy of the represented data, wherein the hierarchy is defined in accordance with the planning parameter; and using the hierarchy to administer the buffered data. Gill in the same field of endeavor disclose the concept of modeling a hierarch of business planning data. Note col. 6, lines 3-25 of Gill. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify the disclosures of Stowell et al to include the teachings of Gill since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and

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one of ordinary skill in the art would have recognized that the result of the combination were predictable.

Regarding claims 2 and 3, the combination of Stowell and Gill fails to teach wherein the administration of the buffered data includes the step of performing a propagating recalculation of a change in the data through the data storage system, wherein the calculation differs from that defined by the planning parameter. Official Notice is taken that it is old and well known in the art of data processing to recalculate a change in data or information and storing the data or information in order to update the data or information. It would have been obvious to a person of ordinary skill in the art to modify the disclosures of the Stowell and Gill to incorporate this well known feature in order to update the information.

Regarding claims 4 and 10, the combination of Stowell and Gill fails to explicitly disclose loading the recalculated data into the data storage system. Official Notice is taken that it is old and well known in the art to load recalculated data into a computer system in order to provide easy access to the data. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify the disclosures of Stowell to include this well known feature in order to provide easy access to the data.

Regarding claim 11, claim 11 is a demand planner apparatus for planning demand for a configurable product in a managed supply chain, for performing the steps of method claim 1; therefore claim 11 is rejected under the same rationale relied upon of claim 1.

Regarding claim 15, claim 15 is a computer-readable medium storing program instructions executable by a processor to perform the method steps of claim 1 above; therefore claim 15 is rejected under the same rationale relied upon of claim 1 above.

Regarding claim 12, claim 12 is a demand planner apparatus for performing the method step of claim 2 above; therefore claim 12 is rejected under the same rationale relied upon of claim 2 above.

9. Claim 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stowell et al (US 20020099579) in view of Gill (US Patent No. 6,947,951) and further in view of Tsai et al (Distributed iterative aggregation algorithms for box-constrained minimization problems and optimal routing in data networks).

Regarding claims 5 and 6, the combination of Stowell and Gill teaches of the limitations above but fails to explicitly disclose wherein the calculation is a disaggregation calculation, wherein the recalculation is a disaggregation or an aggregation calculation. Tsai in the same field of endeavor discloses the concept of disaggregation of an aggregation calculation. Note Pages 1-2 of Tsai. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify the disclosures of Stowell and Gill to include the teachings of Tsai and since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the result of the combination were predictable.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (571) 272-6732. The examiner can normally be reached on Mon-Thurs 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on (571) 272-6782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Romain Jeanty/  
Primary Examiner, Art Unit 3624  
November 8, 2010